



DIVISION OF JUVENILE JUSTICE

Access to Youth Files and Information by Legal Counsel and Authorized Representatives

Youth Rights

Manual	Section #	Replace(s)
<input type="checkbox"/> Administrative (YAM)		
<input type="checkbox"/> Education Services (ES)		
<input checked="" type="checkbox"/> Institutions and Camps (I&C)	5770	5770
<input type="checkbox"/> Parole Services (PS)		
<input type="checkbox"/> Special Education (SE)		

Signature/Approval Date

Original Signed By:

4/15/10

BERNARD E. WARNER
Chief Deputy Secretary

Approval Date

Policy Statement

The Division of Juvenile Justice (DJJ) shall establish the requirements needed for Legal Counsel or their authorized representative to complete a file review while at a facility or during a youth visit within the DJJ, and to receive documents from a youth's file.

Scope

Applicable to each DJJ youth and employee, as well as Legal Counsel and their authorized representative.

Goal(s)

The goal of this DJJ Access to Youth Files and Information by Legal Counsel and Authorized Representatives policy is to ensure that documents contained in youth files are reviewed and received consistent with State and Federal law.

Authority

Welfare and Institutions Code, Section 1712(b)

Related Standards/ References

- California Rules of Court, Rule 5.663
- Health Insurance Portability and Accountability Act of 1996, Public Law 104-191
- California Confidentiality of Medical Information Act, Civil Code, Sections 56-56.16
- Welfare and Institutions Code, Sections 827 and 1764
- Information Practices Act, Civil Code, Section 1798 et. seq.
- Information Practices Policy, I&C Manual, Sections 5720-5760
- Notification of Board Hearings Policy, I&C Manual, Section 4230

Related Remedial Plan or Court Order

Farrell Lawsuit

- Education Services
- Health Care Services
- Mental Health
- Safety and Welfare
- Sexual Behavior Treatment Program
- Wards with Disabilities Program

Other Lawsuits & Court Orders

- L.H. Lawsuit
- Other: _____



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Requirements	This policy has a training requirement:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	This policy has an audit requirement:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	This policy has restricted distribution:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
	This policy requires annual review:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	This policy requires a local procedure:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Revision Date(s)	03/22/09		
Effective Date	06/01/10		

DEFINITION(S)

Authorized Representative – A representative who is designated to act on behalf of Legal Counsel or a Legal Services Organization. An authorized representative must be one (1) of the following:

- A private investigator licensed by any state and sponsored by Legal Counsel or a Legal Services Organization
- An investigator who is employed by Legal Counsel or a Legal Services Organization
- A law student sponsored by Legal Counsel or a Legal Services Organization
- A legal para-professional sponsored by Legal Counsel or a Legal Services Organization
- An employee of a Legal Counsel, a legitimate legal service organization, or a licensed private investigator who is sponsored by Legal Counsel or a Legal Services Organization
- Any person contracted by Legal Counsel or a Legal Services Organization and with express written permission

Legal Counsel – (a) An attorney appointed, retained, or statutorily mandated to act as Legal Counsel for a youth. (b) An attorney who is in possession of a valid court order to access one (1) or more youth. (c) An attorney the youth consents to see, including an attorney requested by the parents of the youth.

Legal Service Organization – Includes but is not limited to groups such as the American Civil Liberties Union, Prison Law Office, Youth Law Center, Disability Rights California, or organizations in the Legal Services Trust Fund Program of the State Bar of California.

Litigation Coordinator – A staff member who is assigned the task of coordinating legal requests for a facility or division.

PROCEDURES

1.0 Introduction

- 1.1. Legal Counsel or their authorized representative may request to review and receive documents contained in youth files consistent with State and Federal law. Requested material shall be copied and mailed within ten (10) business days. If a delay occurs, Legal Counsel or their authorized representative shall be notified within five (5) business days of the request with the reason for the delay, and the date the copies shall be mailed. These timelines may be altered by mutual agreement of the parties. This policy is not intended for information requested by the public, interest groups, advocates or advocacy groups or other legal entities.



DIVISION OF JUVENILE JUSTICE

Access to Youth Files and Information by Legal Counsel and Authorized Representatives

Youth Rights

2.0 Requirements to Complete a File Review While at a Facility or During a Youth Visit

- 2.1. Prior to conducting a file review on facility grounds, Legal Counsel or their authorized representative shall:
 - 2.1.1. Possess a signed DJJ 1.107 form, Authorization for Release of Information, or
 - 2.1.2. Possess the signed release or authorization required by State or Federal law applicable to the type of file requested that is signed by the appropriate person, youth or parent, or
 - 2.1.3. Be noted as the Legal Counsel of record or their authorized representative in appropriate current Court or Division of Juvenile Justice (DJJ) documents that are on file with a Youth Correctional Facility, or
 - 2.1.4. Be able to produce such documents upon request.
- 2.2. Legal Counsel or their authorized representative shall be permitted access to any file or document for review that is permitted by State or Federal law or a valid Court Order.
- 2.3. Before allowing the file review, the Parole Agent (PA) III or Litigation Coordinator shall first establish that no safety and security issues would arise if Legal Counsel or their authorized representative were permitted access. In the rare instance that such issues arise, the specific portion of the document that presents such issues shall be redacted. The PA III shall make a record of what portions of a document, or entire documents, were removed. If there are safety and security risks, Legal Counsel or the authorized representative shall be informed as to what was withheld and the reason for denying access to a particular portion of a document, or entire document.
- 2.4. Once any safety and security issues are resolved, the PA III or Litigation Coordinator shall then prepare the file to be reviewed, which could include redaction of particular information in accordance with Federal and State laws. Legal Counsel or the authorized representative shall be informed as to what was redacted and the reason for redaction.

3.0 Requirements to Receive Documents from a Youth File

- 3.1. Subpoena Duces Tecum
 - 3.1.1. If documents are requested via subpoena, the subpoena shall be processed through the PA III or Litigation Coordinator at the relevant facility in accordance with State and Federal laws, including the Health Insurance Portability and Accountability Act and the California Confidentiality of Medical Information Act.
 - 3.1.2. Should a legal question arise, the PA III or Litigation Coordinator should contact the Office of Legal Affairs in the California Department of Corrections and Rehabilitation at P.O. Box 942883, Sacramento, CA 94283-0001, by phone at (916) 445-0495, or by fax at (916) 327-5306, Attention: Legal Access Team.
- 3.2. L.H. v. Schwarzenegger Permanent Injunction
 - 3.2.1. Subject to the file review provisions above, Legal Counsel shall have access to review or request copies of a parolee's file consistent with preparation for a defense or for negotiating an appropriate disposition for a parole revocation or revocation extension proceeding.
 - 3.2.2. All requests shall be made to the Juvenile Parole Board. Requests shall be granted no later than one (1) business day after having received the request. For revocation extension proceedings, the request shall be to the PA III or Litigation Coordinator if the youth is being held in DJJ.



DIVISION OF JUVENILE JUSTICE

Access to Youth Files and Information by Legal Counsel and Authorized Representatives

Youth Rights

- 3.2.3. The custodian of record shall ensure that copies of relevant information requested from the parolee's files shall be made within two (2) business days after receipt of the request.
- 3.3. Records Request
 - 3.3.1. If documents are requested via a written request, the request should be specific and narrowly tailored. The requestor must include at least one (1) of the following documentation with the written request:
 - 3.3.1.1. The signed DJJ 1.107 form, Authorization for Release of Information, or a form approved by California Department of Corrections and Rehabilitation (CDCR) or
 - 3.3.1.2. The signed release or authorization required by State or Federal law applicable to the type of file requested that is signed by the appropriate person, youth or parent, or
 - 3.3.1.3. Appropriate Court or DJJ documents noting designation of Legal Counsel.
 - 3.3.2. If the Legal Counsel has such documentation on file at the facility, the Legal Counsel can request that the PA III or Litigation Coordinator honor the request, though the PA III or Litigation Coordinator also reserves the right to request current or new documentation.
 - 3.3.3. Should a legal question arise, the PA III or Litigation Coordinator should contact the Office of Legal Affairs in the California Department of Corrections and Rehabilitation at P.O. Box 942883, Sacramento, CA 94283-0001, by phone at (916) 445-0495, or by fax at (916) 327-5306, Attention: Legal Access Team.

TRAINING

Employee

1. Each new employee shall receive training on this DJJ Access to Youth Files and Information by Legal Counsel and Authorized Representatives policy during Employee Orientation.
2. Each current employee shall receive notification on implementation of this DJJ Access to Youth Files and Information by Legal Counsel and Authorized Representatives policy.

Parole Agent III or Litigation Coordinator

1. Attends the annual Litigation Coordinators Training sponsored by the Office of Legal Affairs

Youth

1. Each youth shall receive training on this DJJ Access to Youth File and Information by Legal Counsel and Authorized Representatives policy during Youth Orientation.
2. Each current youth shall receive notification on implementation of this DJJ Access to Youth File and Information by Legal Counsel and Authorized Representatives policy.

QUALITY ASSURANCE

Parole Agent III or Litigation Coordinator

1. Before allowing the file review, assures that the person seeking access meets the access requirements for Legal Counsel or their authorized representative
2. Ensures valid requests are processed in a timely and reasonable manner

FORM(S)

1. DJJ 1.107, Authorization for Release of Information